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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,937	08/27/2003	Richard S. Lillard II	33683	1936

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KANSAS CITY, MO 64108

EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,937

Applicant(s)

LILLARD, RICHARD S.

Examiner

Susan C. Alimenti

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,9,10,13,15-28 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,9,10,13,15-28 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-6, 9-10, 13, 15-28 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. (US 2,754,613) and further in view of Dykema (US 6,640,485).

Rogers et al. (Rogers hereafter) discloses the claimed fishing tackle, except the sleeve 28 is not made of plastic and does not endlessly encircle the hook 23 and the clip 10. Rogers' fishing tackle comprises a fishing hook 23, a bait attachment clip fixed relative to the hook, said clip including first 10 and second 14 jaws shiftably coupled together by spring 22' to enable a clamped position, wherein the first jaw ends are adjacent one another and the second jaw ends 12, 16 are spaced from one another. The hook includes an eyelet 25 in one end thereof and an opposed barbed end 23 spaced from the eyelet 25 by shaft portion 24. The hook further comprises a first bend 23A (See examiner's reference characters in Figure 2) disposed between the barbed end 23 and the shaft portion 24, and a second bend 24A disposed between the shaft portion 24 and the eyelet 25. Rogers' clip further comprising an aperture 20 located on the first jaw member 10 near end 12 configured to be slideably received over the barbed end 23 of the hook and prevented from sliding over the eyelet 25. Finally a sleeve 28 is provided to receive both the first jaw end of the first jaw 10 and a portion of the shaft 24 to releasably hold them in parallel alignment (Rogers, col.2, lns.9-15).

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2. While Rogers does not use a plastic, flexible sleeve in order to achieve this coupling feature, Dykema discloses a fishing tackle that employs such a flexible sleeve coupler. Dykema teaches that at least flexible sleeve 60 is applied over a portion of wire frame 68 to stabilize at least a portion of hook 64 thereto. (Dykema, col. 3, lns.16-27) Tail portion 22 is similarly made of “elastic flexible material.” (Dykema, col.3, lns.8-9) It is further noted that such an endlessly encircling flexible sleeve or tube is well known to be advantageous in coupling, securing, or stabilizing discrete parts of fishing lures or other objects. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Rogers’ tackle by implementing Dykema’s flexible sleeve as an obvious substitution of art recognized equivalent parts for achieving the same function.

3. Regarding claims 36-38, there is no positive recitation as to what type of material Dykema’s elastic flexible sleeve is made of, however it is considered obvious that an elastically flexible sleeve would be made of some type of elastically deformable polymer or resin/rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use polyurethane or a rubber material to make the sleeve, since it has been held to be within the level of ordinary skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

4. Applicant's arguments with respect to claims 2-6, 9-10, 13, 15-28 and 36-38 have been considered but are moot in view of the new grounds of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

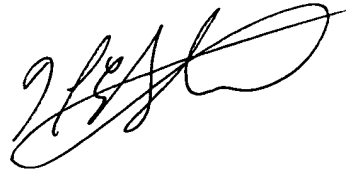
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Behrend can be reached on 571-272-6871. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCA

A handwritten signature in black ink, appearing to be "J. H. Smith", written in a cursive style.